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CITY OF GREENVILLE

POLICY NO. HR-28

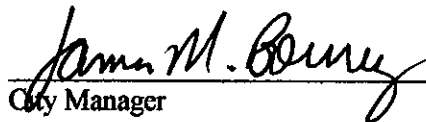
DATE: July 01, 2004

SUBJECT: Disability Management Policy

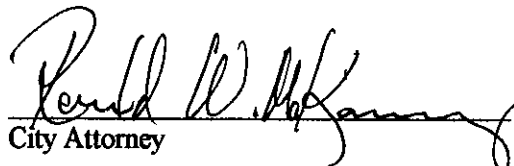
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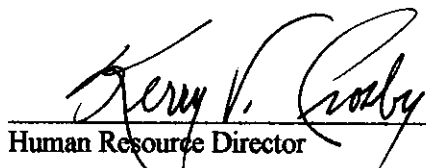
APPROVALS:



City Manager



City Attorney



Human Resource Director

I. Purpose

The purpose of this policy is to describe procedures for managing the process of returning to work those City employees who have been injured or who have illnesses that prevent them from performing the essential functions of their jobs. This process is intended to facilitate communications between the employee and the City and to involve appropriate parties in decision-making on issues of Transitional Return to Work employment, permanent reassignments, changes in job duties and reasonable accommodations.

II. Scope

This policy applies to all classified full-time and permanent part-time employees of the City of Greenville who have been off regular work due to job-related, or non-job-related, injuries or illnesses. This policy and the procedures related to disability management also apply to post-offer job applicants who request reasonable accommodations for a disability.

III. Policy

The policy of the City of Greenville is to provide assistance to City employees who have been injured or who have illnesses that prevent them from performing the essential functions of their jobs. Goals of this policy include:

- * to fully comply with the Workers' Compensation Act, the Family Medical Leave Act and the Americans with Disabilities Act.
- * to return employees to useful and productive work as soon as possible.
- * to hasten employee recovery from temporary disabilities.
- * to accommodate - where reasonable - physical limitations of employees.
- * to ensure expenditures associated with Workers' Compensation entitlements are spent in the most productive manner, and
- * to minimize unnecessary costs to the City of Greenville, such as those arising from misunderstandings between the City and its employees about fair and meaningful ways to return employees to a productive and rewarding work environment following an injury or illness.

IV. Procedures

When employees are injured or experience illnesses that prevent them from performing the essential functions of their jobs, there are four possible courses of action:

- * Return the employee to transitional work for a limited period of time.
- * Return and permanently reassign the employee to a different available job within the employee's medical restrictions or physical limitations.
- * Modify the job duties or work methods of the employee's normal job so that the employee can perform the job.
- * Terminate active employment through the employee's resignation, retirement, disability retirement, or administrative discharge.

The decision on which course of action to take will be made by a disability management committee headed by the Human Resource Director and include the Department Head (or a designated representative), the Occupational Health Nurse, Benefits Administrator, and the Risk Manager.

The Occupational Health Nurse will coordinate the following activities:

1. Maintain regular contact with the employee so that he or she is kept informed as to the City's actions, will be reassured with respect to the City's intentions, and is provided appropriate assistance from the City.
2. Obtain information pertinent to the individual case from the attending physicians and from specialists such as ergonomics experts, rehabilitation counselors or rehabilitation engineers.
3. Convene meetings of the disability management committee, as appropriate, with the affected employee, and/or with other resources, as necessary, to...
 - a. Analyze existing job descriptions to ensure they accurately reflect the skills and abilities required to perform the essential functions of the job, and identify marginal functions which can be eliminated or performed by another employee.
 - b. Compare the skills and abilities required to perform the essential functions of the job with the employee's abilities, limitations or medical restrictions, to identify essential duties that exceed the employee's limitations.
 - c. Identify possible reasonable accommodations, if any, through independent analysis and/or through consultation with the employee's attending physicians, occupational and/or physical therapists, and the employee him/herself.

- d. Evaluate modifications and alternatives compatible with temporary restrictions and temporary limitations for Transitional Return to Work.
- e. Evaluate potential accommodations for cost, for affect on work flow and productivity, and for potential safety impact.
- f. Develop a return to work plan, if possible, for the employee.

In situations where consensus is not reached on an appropriate reasonable accommodation, or on a Transitional Return to Work plan, the City Manager shall be the final authority and decision maker.

- 4. The Occupational Health Nurse will monitor the progress of all employees in transitional work, whether assigned to their own job that is modified, a job other than their own or a group of tasks because of temporary medical restrictions or temporary limitations, and will reconvene the disability management committee as necessary to modify the plan or to take action to terminate active employment.

The same general process will be followed when a post-offer job applicant requests a reasonable accommodation to allow employment.

Employees, medically released to return to transitional work, *may not* refuse to return so long as the work, available and offered by the City, is within their medical restrictions. Refusal to return to work will subject the employee to disciplinary action up to and including discharge, unless the employee can present satisfactory, detailed, documented, medical evidence and supporting opinion from the treating physician which explains why the employee is unable to do the work as offered.

The City reserves the right to rely on its own designated physicians, specialists, and medical professionals for its decisions in such matters.

However, employees who qualify for family medical leave (FML), who have unused Family Medical Leave Act entitlement remaining, may opt to use that family medical leave in lieu of returning to work, until their allotted 12-weeks are exhausted. Family medical leave is generally *leave without pay*. *If, however* an employee has a positive balance of accrued general leave, he or she must use that general leave concurrent with the FML, until the General Leave balance is reduced to ten 10 days. At that point, he or she may elect to continue FML *without pay*. When an employee's 12-weeks of FMLA entitlement are exhausted, he/she must return to transitional work, if available, or return to his/her regular job if so cleared, or be retired or disability retired, or be administratively terminated.

Employees will be informed (see Exhibit A) that transitional work is available, but that it is temporary and may not last longer than the earliest of the following events:

- A. The employee is released to return to his/her regular job by the treating physician, or the by the City's physician;
- B. The employee reaches Maximum Medical Improvement (MMI) and/or is rated with a permanent partial disability which prevents him/her from ever returning his/her regular job;
- C. The employee has been away from his/her regular job, whether on FML or on transitional work assignment, or a combination of both, for 120 calendar days and has not been cleared to return to regular work.

The City reserves the right to make an exception to the preceding terminus conditions if within an acceptable brief period of time the employee will qualify for a disability retirement, or be definitely able to return to his/her regular job, as in the case of a broken bone or recovery from a major surgery.

All work in relation to the above steps and other actions will be documented and retained in a file separate from official personnel records.

Employees on transitional work will receive the hourly pay rates and benefits of their regular jobs during such transitional work assignments. If an employee's work release is for part-time work only, his/her work hours, disability benefits and pay will be adjusted accordingly. If limited transitional work opportunities are available, employees with work-related injuries will be given priority over employees with non-work-related injuries or illnesses for the opportunity to return to transitional work.

V. Definitions:

Transitional Return To Work employment - A temporary job assignment, whether or not within the employee's regularly assigned department, which the City needs done, which an employee can perform within medical restrictions or physical limitations set by an approved physician. Transitional work may be the same job with modification, another suitable job or a group of tasks (not necessarily a job) that are physically suitable. Transitional work is not to exceed 120 calendar days in any one rolling 12-month period of time. The nature of transitional work may change in response to changes in the employee's restrictions or limitations.

Family Medical Leave Act (FMLA) - A Federal law which requires certain employers, including the City of Greenville, to provide up to 12 weeks of unpaid leave during a 12-month period at the time of birth, adoption, or foster placement of a child, or if a serious health condition affects the employee, or the employee's spouse, child or parent.

Workers' Compensation Act- A system which provides medical and/or disability benefits to employees who are injured on the job , under S.C. Code.

Americans With Disabilities Act (ADA) - A Federal civil rights law which assures equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services and telecommunications.

Disability retirement - Retirement which occurs as a result of a disability which develops after an employee has worked sufficient years to achieve retirement under disability.

Reasonable accommodation - A modification or adjustment to a job or the work environment which enables a qualified applicant or employee with a disability to perform essential job functions while not causing undue hardships or expense for the employer or fellow employees.

Essential Job Functions - Tasks which are truly required by an individual job.

Marginal Job Functions - Tasks which may traditionally be part of an individual job, but which can be assigned to another employee or performed in another way.

EXHIBIT A.

TRANSITIONAL WORK ASSIGNMENT AGREEMENT

The City of Greenville seeks to provide transitional work for employees who are temporarily disabled due to work related or non-work related injuries or illnesses. The purpose is to facilitate recovery and return employees to work as soon as possible.

The physician, Dr. _____, has released you to return to work with the following restrictions:

LIST RESTRICTIONS:

Work has been identified within these restrictions and is available on _____. Report as directed by the Occupational Health Department. It is your responsibility to: (Date)

2. Do only work that meets the restrictions and to notify your supervisor if you are being asked to work beyond the restrictions listed above.
3. Notify your supervisor in advance of medical appointments. Please schedule appointments in cooperation with your supervisor, designed to limit time away from work as much as possible.
4. Contact the Occupational Health Department if you are working within restriction but are still experiencing pain or symptoms you can not tolerate.
5. Work with your supervisor to increase your level of work activity as your restrictions change.

By signing this document, you are acknowledging that you are being returned to transitional work which is temporary in nature. You acknowledge that the transitional work assignment depends on the continuing availability of needed work that falls within your medical restrictions and/or physical limitations. You acknowledge you have had an opportunity to read City Human Resource Policy HR-28 and that understand transitional work may not exceed the date of the earliest of the following events:

1. The date you are released to return to your regular job either by your treating physician or by the City's physician;
2. The date you are declared to have reached Maximum Medical Improvement (MMI) and/or are given a permanent restriction or limitation that prevents you from returning to your regular job;

- 3 The date you have been away from your regular job, whether on FML or on transitional work assignment, or a combination of both, for 120 calendar days, and still have not been cleared to return to regular work.

If you have questions about the transitional return to work program, please contact the Occupational Health Center. We wish you well and hope you will be able to return to regular work soon.

(Employee Signature)

(Date)

(City Authorized Signature)

(Date)

(Send original of this form to Human Resources)